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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ARMANDO HERNANDEZ JIMENEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

**COLLECTIVE ACTION
COMPLAINT**

-against-

GREEN OLIVE INC. and MOHAMED NAJI SALEH, as an
individual,

JURY TRIAL
DEMANDED

Defendants.
-----X

Plaintiff, **ARMANDO HERNANDEZ JIMENEZ**, individually and on behalf of all others similarly situated, (hereinafter referred to as "Plaintiff"), by his attorneys at Helen F. Dalton & Associates, P.C., allege, upon personal knowledge as to himself and upon information and belief as to other matters, as follows:

PRELIMINARY STATEMENT

1. Plaintiff, through undersigned counsel, bring this action against **GREEN OLIVE INC. and MOHAMED NAJI SALEH, as an individual**, (collectively hereinafter, "Defendants") to recover money damages as a result of Defendants' egregious violations of N.Y. State wage-and-hour laws, and specifically, the New York Labor Law, and related state regulations ("NYLL"), arising out of the Plaintiff's employment with Defendants located at 80-45 Kew Gardens Road, Rd 3, Kew Gardens, NY 11415.
2. As a result of the violations of Federal and New York State labor laws delineated below, Plaintiff seeks compensatory damages and liquidated damages. Plaintiff also seeks

interest, attorneys' fees, costs, and all other legal and equitable remedies this Court deems appropriate.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over Plaintiff's federal claims pursuant to the FLSA, 29 U.S.C. §216 and 28 U.S.C. §1331.
4. This Court has supplemental jurisdiction over Plaintiff's other state law claims pursuant to 28 U.S.C. §1367.
5. Venue is proper in the EASTERN District of New York pursuant to 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claims herein occurred in this judicial district.
6. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§2201 & 2202.

THE PARTIES

The Plaintiff

7. Plaintiff ARMANDO HERNANDEZ JIMENEZ residing in Woodside, NY 11377 was employed by Defendants at GREEN OLIVE INC., from in or around August 2022 until in or around July 2023.

The Defendants

Green Olive Inc.

8. Defendant, GREEN OLIVE INC., is a domestic business corporation organized under the laws of New York with a principal executive office at 80-45 Kew Gardens Road, Rd 3, Kew Gardens, NY 11415.
9. Defendant, GREEN OLIVE INC., is a domestic business corporation authorized to do business under the laws of New York.

Mohamed Naji Saleh

10. At all relevant times hereto, Defendant MOHAMED NAJI SALEH, known as "Moel" to Plaintiff, owns and operates GREEN OLIVE INC.

11. Upon information and belief, Defendant MOHAMED NAJI SALEH is an agent of GREEN OLIVE INC.
12. At all relevant times hereto, Defendant MOHAMED NAJI SALEH is responsible for overseeing the daily operations of GREEN OLIVE INC.
13. At all relevant times hereto, Defendant MOHAMED NAJI SALEH has power and authority over all the final personnel decisions of GREEN OLIVE INC.
14. At all relevant times hereto, Defendant MOHAMED NAJI SALEH has the power and authority over all final, payroll decisions of GREEN OLIVE INC., including the Plaintiff.
15. At all relevant times hereto, Defendant MOHAMED NAJI SALEH has the exclusive final power to hire the employees of GREEN OLIVE INC., including the Plaintiff.
16. At all relevant times hereto, Defendant MOHAMED NAJI SALEH has exclusive final power over the firing and terminating of the employees GREEN OLIVE INC., including the Plaintiff.
17. At all relevant times hereto, Defendant MOHAMED NAJI SALEH is responsible for determining, establishing, and paying the wages of all employees of GREEN OLIVE INC., including the Plaintiff, setting their work schedules, and maintaining all their employment records of the business.
18. Accordingly, at all relevant times hereto, Defendant MOHAMED NAJI SALEH was Plaintiff's employer within the meaning and the intent of the FLSA, and the NYLL.
19. At all times relevant to the allegations contained in the complaint, Corporate Defendant was, and is, an enterprise engaged in interstate commerce within the meaning of the FLSA in that GREEN OLIVE INC. (i) has purchased goods, tools, and supplies for its business through the streams and channels of interstate commerce, and has had employees engaged in interstate commerce, and/ or in the production of goods intended for commerce, and handle, sell and otherwise work with goods and material that have been moved in or produced for commerce by any person: and (ii) has had annual gross volume of sales of not less than \$500,000.00.

FACTUAL ALLEGATIONS

20. Plaintiff ARMANDO HERNANDEZ JIMENEZ was employed by GREEN OLIVE INC., as a food preparer, cook, cleaner, and stocker while performing related miscellaneous duties for the Defendants, from in or around August 2022 until in or around July 2023.
21. Plaintiff ARMANDO HERNANDEZ JIMENEZ regularly worked five (5) days per week from in or around August 2022 until in or around July 2023.
22. During Plaintiff's employment with the Defendants, Plaintiff regularly worked a schedule of shifts beginning at approximately 7:00 a.m. each workday and regularly ending at approximately 5:00 p.m. or later, three (3) days per week and at approximately 7:00 a.m. each workday and regularly ending at approximately 6:00 p.m. or later, two (2) days per week.
23. Thus, Plaintiff was regularly required to work approximately fifty-two (52) hours each week from in or around August 2022 until in or around July 2023.
24. Plaintiff ARMANDO HERNANDEZ JIMENEZ was paid by Defendants a flat weekly rate of approximately \$800.00 per week for all hours worked during his employment with the Defendants.
25. Although Plaintiff ARMANDO HERNANDEZ JIMENEZ worked approximately fifty-two (52) hours or more hours per week from in or around August 2022 until in or around July 2023, Defendants did not pay Plaintiff time and a half (1.5) for hours worked over forty (40), a blatant violation of the overtime provisions contained in the FLSA and NYLL.
26. Furthermore, Plaintiff ARMANDO HERNANDEZ JIMENEZ worked in excess of ten (10) or more hours per day approximately two (2) days per week from in or around August 2022 until in or around July 2023, however, Defendants did not pay Plaintiff an extra hour at the legally prescribed minimum wage for each day worked over ten (10) hours, a blatant violation of the spread of hours provisions contained in the NYLL.
27. Upon information and belief, Defendants willfully failed to post notices of the minimum wage and overtime wage requirements in a conspicuous place at the location of their employment as required by the FLSA and NYLL.

28. Upon information and belief, Defendants failed to provide Plaintiff with a wage notice at the time of his hire or at any time during his employment in violation of the NYLL.
29. Upon information and belief, Defendants failed to provide Plaintiff with an accurate wage statement that included all hours worked and all wages received each week when Plaintiff was paid in violation of the NYLL.
30. As a direct result of Defendants' violations and failure to provide proper wage notices and wage statements, Plaintiff suffered a concrete harm, resulting from Plaintiff's inability to identify Plaintiff's employer to remedy his compensation problems, lack of knowledge about the rates of pay he was receiving and/or should have receiving for his regular hours and overtime hours, terms, and conditions of his pay, and furthermore, an inability to identify his hourly rate of pay to ascertain whether he was being properly paid in compliance with the FLSA and NYLL – which he was not.
31. Furthermore, Defendants' alleged willful failures to provide Plaintiff with these documents prevented Plaintiff from being able to calculate his hours worked, and proper rates of pay, and determine if he was being paid time-and-a-half for his overtime hours as required by the FLSA and NYLL.

COLLECTIVE ACTION ALLEGATIONS

32. Plaintiff brings this action on behalf of himself, and other employees similarly situated as authorized under the FLSA, 29 U.S.C. § 216(b). The employees similarly situated are the collective class.
33. Collective Class: All persons who are or have been employed by the Defendants as food preparers, cooks, cleaners, stockers, or other similarly titled personnel with substantially similar job requirements and pay provisions, who were performing the same sort of functions for Defendants, other than the executive and management positions, who have been subject to Defendants' common practices, policies, programs, procedures, protocols and plans including willfully failing and refusing to pay required minimum and overtime wage compensation.
34. Upon information and belief, Defendants employed approximately 10 or more employees within the relevant time period who were subjected to similar payment structures.

35. Upon information and belief, Defendants suffered and permitted Plaintiff and the Collective Class to work more than forty hours per week without appropriate overtime compensation.
36. Defendants' unlawful conduct has been widespread, repeated, and consistent.
37. Upon information and belief, Defendants had knowledge that Plaintiff and the Collective Class performed work requiring overtime pay.
38. Defendants' conduct as set forth in this Complaint, was willful and in bad faith, and has caused significant damages to Plaintiff and the Collective Class.
39. Defendants are liable under the FLSA for failing to properly compensate Plaintiff and the Collective Class, and as such, notice should be sent to the Collective Class. There are numerous similarly situated current and former employees of Defendants who have been denied overtime pay in violation of the FLSA and NYLL, who would benefit from the issuance of a Court-supervised notice of the present lawsuit, and the opportunity to join the present lawsuit. Those similarly situated employees are known to Defendants and are readily identifiable through Defendants' records.
40. The questions of law and fact common to the putative class predominate over any questions affecting only individual members.
41. The claims of Plaintiff are typical of the claims of the putative class.
42. Plaintiff and his counsel will fairly and adequately protect the interests of the putative class.
43. A collective action is superior to other available methods for the fair and efficient adjudication of this controversy.

FIRST CAUSE OF ACTION

Overtime Wages Under The Fair Labor Standards Act

44. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.
45. Plaintiff have consented in writing to be a party to this action, pursuant to 29 U.S.C. §216(b).
46. At all times relevant to this action, Plaintiff was engaged in commerce or the production of goods for commerce within the meaning of 29 U.S.C. §§206(a) and 207(a).

47. At all times relevant to this action, Defendants were employers engaged in commerce or the production of goods for commerce within the meaning of 29 U.S.C. §§206(a) and 207(a).
48. Defendants willfully failed to pay Plaintiff's overtime wages for hours worked in excess of forty (40) hours per week at a wage rate of one and a half (1.5) times the regular wage, to which Plaintiff was entitled under 29 U.S.C. §§206(a) in violation of 29 U.S.C. §207(a)(1).
49. Defendants' violations of the FLSA as described in this Complaint have been willful and intentional. Defendants have not made a good effort to comply with the FLSA with respect to the compensation of the Plaintiff.
50. Due to Defendants' FLSA violations, Plaintiff is entitled to recover from Defendants, jointly and severally, his unpaid wages and an equal amount in the form of liquidated damages, as well as reasonable attorneys fees and costs of the action, including interest, pursuant to the FLSA, specifically 29 U.S.C. §216(b).

SECOND CAUSE OF ACTION

Overtime Wages Under New York Labor Law

51. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.
52. At all times relevant to this action, Plaintiff was employed by Defendants within the meaning of New York Labor Law §§2 and 651.
53. Defendants failed to pay Plaintiff's overtime wages for hours worked in excess of forty hours per week at a wage rate of one and a half (1.5) times the regular wage to which Plaintiff was entitled under New York Labor Law §652, in violation of 12 N.Y.C.R.R. 137-1.3.
54. Due to Defendants' New York Labor Law violations, Plaintiff is entitled to recover from Defendants, jointly and severally, his unpaid overtime wages and an amount equal to his unpaid overtime wages in the form of liquidated damages, as well as reasonable attorneys' fees and costs of the action, including interest in accordance with NY Labor Law §198(1-a).

THIRD CAUSE OF ACTION

Spread of Hours Compensation Under New York Labor Law

55. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.
56. Defendants willfully violated Plaintiff's rights by failing to pay Plaintiff an additional hour of pay at minimum wage for each day worked more than ten (10) hours, in violation of the New York Minimum Wage Act and its implementing regulations. N.Y. Labor Law §§ 650 et seq.; 12 N.Y. C. R. R. § 142-2.4
57. Due to Defendants' New York Labor Law violations, Plaintiff is entitled to recover from Defendants his unpaid spread of hour compensation, reasonable attorneys' fees, and costs of the action, pursuant to N. Y. Labor Law § 663 (1).

FOURTH CAUSE OF ACTION

Violation of the Wage Statement Requirements of the New York Labor Law

58. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.
59. Defendants failed to provide Plaintiff with wage statements upon each payment of wages, as required by NYLL §195(3)
60. Defendants are liable to Plaintiff in the amount of \$5,000.00 per Plaintiff, together with costs and attorneys' fees.

FIFTH CAUSE OF ACTION

Violation of the Notice and Recordkeeping Requirements of the New York Labor Law

61. Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.
62. Defendants failed to provide Plaintiff with a written notice, in English and in Spanish (Plaintiff's primary language), of his rate of pay, regular pay day, and such other information as required by NYLL §195(1).
63. Defendants are liable to Plaintiff in the amount of \$5,000.00 per Plaintiff, together with costs and attorneys' fees.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that judgment be granted:

- a. Declaring Defendants' conduct complained herein to be in violation of the Plaintiff's rights under the FLSA, the New York Labor Law, and its regulations;
- b. Awarding Plaintiff's unpaid overtime wages;
- c. Awarding Plaintiff's unpaid spread of hours compensation;
- d. Awarding Plaintiff liquidated damages pursuant to 29 U.S.C. §216 and New York Labor Law §§198(1-a), 663(1);
- e. Awarding Plaintiff prejudgment and post-judgment interest;
- f. Awarding Plaintiff the costs of this action together with reasonable attorneys' fees; and
- g. Awarding such and further relief as this court deems necessary and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by the complaint.

Dated: November 30, 2023
Kew Gardens, NY.

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COLLECTIVE ACTION COMPLAINT

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To:

Service via Secretary of State and Personal Service:

GREEN OLIVE INC. (DOS ID# 5191911)

80-45 Kew Gardens Rd 3, Kew Gardens, NY 11415

MOHAMED NAJI SALEH

80-45 Kew Gardens Rd 3, Kew Gardens, NY 11415